IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE A.K.BASHEER

THURSDAY, THE 6TH DECEMBER 2007 / 15TH AGRAHAYANA 1929

WP(C).No. 34484 of 2007(E)

PETITIONERS:
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1. FOUSIYA,
W/O.MEETHALE KOYILOTH AMMED, AMERI HOUSE,
KADAMERI POST, VILLIAPALLI VIA, KOZHIKODE
DISTRICT.

2. MOIDEEN, S/O.MOOSAKUTTY, -DO- -DO-

3. KUNHAMI, W/O.MOIDEEN, -DO- -DO-

4. MOOSA, -DO- -DO-

5. SUBAIDA, D/O.MOIDEEN, -DO- -DO-

BY ADV. SRI.K.P.SUDHEER

RESPONDENTS:
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1. THE SUB INSPECTOR OF POLICE, VATAKARA
POLICE STATION, VATAKARA, KOZHIKODE DISTRICT.

2. THE SUPERINTENDENT OF POLICE,
KOZHIKODE.

3. M.C.MOIDU MASTER, S/O.KUNHABDULLA HAJI,
AGED 51 YEARS, MANAYATH, VALLIAD POST,
VADAKARA, KOZHIKODE DISTRICT, PIN - 673 542.

4. SUMANGALA, W/O.GANGADHARAN, AGED 35
YEARS, KARUVANDI, VILLIAPPALLY, VALLIAD POST,
VADAKARA, KOZHIKODE DISTRICT, PIN - 673 542.

5. V.K.KELAPPAN, KANIYARAKANDY VEEDU,
-DO- -DO-

6. P.T.K.RAJEEVAN, S/O.KANNAN, PUNATHIL
THAZHE KUNHIVEEDU, P.O.VALLIAD, VILLIAPILLY,

KOZHIKODE DISTRICT, PIN - 673 542.

7. M.KUNHIKANNAN, S/O.CHOYI, MAVVOTHINGAL,
POST VALLIAD, KOTTAPPALLY, VADAKARA,
KOZHIKODE DISTRICT, PIN - 673 542.

8. KEERAKANDI GAFOOR, S/O.AMMAD,
KEERAKANDI HOUSE, POST VALLIAD,
VILLIAPPILLY, VATAKARA - 673 542.

BY ADV. SRI.P.V.SURENDRANATH
GOVT. PLEADER SRI.P.A.SALIM.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX (WPC NO.34484/2007)

PETITIONERS' EXTS.

EXT.P1 - TRUE COPY OF ORDER PASSED BY THE MUNSIFF'S COURT, VADAKARA IN I.A.NO.283/2007 IN O.S.NO.19/2007.

EXT.P2 - TRUE COPY OF FIR DATED 11.3.2007 IN CRIME NO.222/2007 OF VADAKARA POLICE STATION.

EXT.P3 - TRUE COPY OF FIR DATED 3.3.2007 IN CRIME NO.198/2007 OF VADAKARA POLICE STATION.

EXT.P4(a) – TRUE COPY OF COMPLAINT DATED NIL SUBMITTED BY THE 1ST PETITIONER'S HUSBAND BEFORE THE EMBASSY OF INDIA.

EXT.P4(b) – TRUE COPY OF COMPLAINT DATED 7.2.2007 SUBMITTED BY THE PETITIONER'S HUSBAND BEFORE THE EMBASSY OF INDIA.

EXT.R4(c) – TRUE COPY OF COVERING LETTER DATED 20.3.2007 ISSUED BY EMBASSY OF INDIA TO THE 2ND RESPONDENT.

EXT.P4(d) – TRUE COPY OF COVERING LETTER DATED 7.2.2007 ISSUED BY THE EMBASSY OF INDIA TO THE 2ND RESPONDENT.

EXT.P5 – TRUE COPY OF PETITION DATED 4.10.2007 SENT BY THE PETITIONERS THROUGH REGD. POST ACK. DUE TO THE 1ST RESPONDENT.

EXT.P6 - TRUE COPY OF ACKNOWLEDGEMENT CARD EVIDENCING THE RECEIPT OF EXT.P5 PETITION.

EXT.P7 - TRUE COPY OF PLAN SUBMITTED BY THE ADVOCATE COMMISSIONER IN I.A.NO.284 OF 2007 IN O.S.NO.19/2007 BEFORE THE MUNSIFF'S COURT, VADAKARA.

EXT.P8 - TRUE COPY OF REPORT DATED 12.2.2007 SUBMITTED BY THE ADVOCATE COMMISSIONER IN I.A.NO.284 OF 2007 O.S.NO.19 OF 2007 BEFORE THE MUNSIFF'S COURT, VADAKARA.

EXT.P9 – TRUE COPY OF PLAN SUBMITTED BY THE ADVOCATE COMMISSIONER IN O.S.NO.19 OF 2007 BEFORE THE MUNSIFF'S COURT, VADAKARA.

EXT.P10 - TRUE COPY OF REPORT DATED 1.10.2007 SUBMITTED BY THE ADVOCATE COMMISSIONER IN O.S.NO.19 OF 2007 BEFORE THE MUNSIFF'S COURT, VADAKARA.

EXT.P11 – TRUE COPY OF TITLE DEED DATED 225.11.2004 IN THE NAME OF THE FIRST PETITIONER'S HUSBAND.

EXT.P12 – TRUE COPY OF NOTICE OF INFORMATION ISSUED TO THE DEFACTO COMPLAINANT IN EXT.P2 FIR DATED NIL.

EXT.P13 - TRUE COPY OF FIR DATED 21.6.2006 IN CRIME NO.399 OF 2006 OF VADAKARA POLICE STATION.

EXT.P14 - TRUE COPY OF FIR DATED 8.11.2007 IN CRIME NO.867 OF 2007 OF VADAKRA POLICE STATION.

EXT.P15 - TRUE COPY OF RECEIPT DATED 6.6.2007 ISSUED BY 1ST RESPONDENT.

EXT.P16 - TRUE COPY OF RECEIPT DATED 11.3.2007 ISSUED BY S.I. OF POLICE, NADAPURAM.

/TRUE COPY/

K.BALAKRISHNAN NAIR &
A.K.BASHEER, JJ.

W.P.(C) NO. 34484 OF 2007-E

Dated 6th December, 2007.

JUDGMENT

Balakrishnan Nair, J.

The petitioners have approached this Court, mainly seeking a direction to respondents 1 and 2 to render adequate police protection to the life of the petitioners and also for employing workers in their property for plucking coconuts. There is a dispute between the petitioners on the one hand and respondents 3 to 8 on the other. According to the petitioners, a recently formed road committee in the locality is trying to encroach on the western boundary of the 1st petitioner's property, which is having an extent of 4.59 ares in Re-survey No.16/9 of Valliad Village and lay a road. According to the petitioners, now there is a pathway which is through the middle of the property on the western side, owned by one Unikkandi Ammad. To help him, the road is sought to be shifted to the eastern side of his property and in that process they are trying to encroach upon the western boundary of the 1st petitioner's property. The 1st petitioner has already moved the civil court and obtained Ext.P1 injunction order. In view of the said interim order obtained by her, the committee has called for a boycott of

the petitioners and their family members. The workmen are prevented from coming and working in their agricultural lands. The plucking of coconuts from their coconut trees is also prevented. Physical threat is also held out against them. In the above background, the 1st petitioner's husband filed Ext.P4 series representations through the Indian Embassy seeking help from the authorities, as he is working abroad. The petitioners have preferred Ext.P5 representation also, claiming protection to their lives, the workmen they propose to engage to pluck the coconuts. Thereafter, this writ petition is filed, seeking appropriate reliefs.

2. The contesting party respondents have filed a counter affidavit, denying all the allegations against them. They have no intention whatsoever to encroach on the property of the 1st petitioner, it is submitted. There is already a varamba on the western side of the 1st petitioner's property. Equal extent of land is surrendered by the land owner on the western side. So, a road having a width of 2.5 metres can be opened. There is no intention, whatsoever, to threaten the petitioners or their family members or to encroach on the property of the 1st petitioner. The allegation that they are obstructing the workmen engaged for plucking the coconuts is also denied by the contesting respondents.

3. The learned Government Pleader, upon instructions, submitted that

as and when information regarding cognizable offence was reported, the police have promptly registered the crime. Inaction against the police is denied.

4. The civil dispute regarding encroachment, opening of a road etc., are matters pending before the civil court. There is already an injunction in favour of the petitioners also. If the said injunction is violated, the petitioners can move the civil court for appropriate reliefs. The civil court is also empowered to address the police to grant assistance to enforce the injunction orders. But, if any workmen working in the agricultural land of the petitioners are obstructed, they may move the police. In that event the police shall remove the obstruction. If any cognizable office is reported, needless to say, the police shall take appropriate action in accordance with law.

The Writ Petition is disposed of as above.

K.BALAKRISHNAN NAIR, JUDGE.

A.K.BASHEER, JUDGE.

Nm/